

ORIGINAL

2001

S.K. No. 10,711

IN THE SUPREME COURT OF NOVA SCOTIA

BETWEEN:

**THE CANADIAN FEDERATION OF STUDENTS and CANADIAN
FEDERATION OF STUDENTS - SERVICES**

PLAINTIFFS/DEFENDANTS BY COUNTERCLAIM

- and -

ACADIA STUDENTS' UNION

DEFENDANT/PLAINTIFF BY COUNTERCLAIM

RECEIVED & FILED
SEP 25 2002
Court Administration Office
Kentville Justice Centre

DEFENCE AND COUNTERCLAIM

TO THE PROTHONOTARY AND PLAINTIFFS/DEDENDANTS BY COUNTERCLAIM:

TAKE NOTICE that the Defence and Counterclaim attached hereto are filed by the Defendant/Plaintiffs By Counterclaim, **ACADIA STUDENTS' UNION**, who is defended by **MICHAEL V. COYLE**, solicitor for the Defendant/Plaintiff By Counterclaim..

AND FURTHER TAKE NOTICE that the address of the solicitor for the Defendant/Plaintiff By Counterclaim is c/o **Muttart Tufts Dewolfe & Coyle**, 20 Cornwallis Street, P.O. Box 515, Kentville, Nova Scotia, at which address service of documents in this proceeding may be served as effectively as if served upon the Defendant/ Plaintiff By Counterclaim personally.

DEFENCE

AS TO THE STATEMENT OF CLAIM HEREIN, THE DEFENDANTS/PLAINTIFFS BY COUNTERCLAIM SAY:

1. The Defendant/Plaintiff By Counterclaim (hereinafter referred to as "ASU") admits paragraphs 1, and 3 of the Statement of Claim and adds further that the ASU is, under the laws of Nova Scotia, incorporated by statute as the "official organization of the students of Acadia University".
2. The ASU has no knowledge as to the truth of the facts asserted in paragraph 2 of the Statement of Claim.
3. As to the rest of the Statement of Claim, the ASU denies each and every allegation and claim therein.
4. More particularly, and without limiting the generality of the foregoing, the ASU denies that it is a party to any "contract of membership" with the Plaintiffs/Defendants by Counterclaim, or either of them, (hereinafter collectively called "CFS") whether as alleged in the Statement of Claim or otherwise.
5. The Defendant is not now, and has not been since 1996, a member or affiliate of the CFS.
6. The ASU further says that in February of 1996, as a result of a referendum conducted among the students of Acadia University, it withdrew from membership in the Plaintiff organizations because the ASU, in obedience to the wishes of the overwhelming majority of students of Acadia University, did not wish to remain in the membership of the CFS or to be associated with the political positions taken by the CFS and, since that time, the ASU has not been a member of CFS.
7. More particularly, in a referendum held on February 1, 1996, the students of Acadia University voted as follows:

"Yes" (to remain in CFS)	319	-	21.9%
"No" (to leave CFS)	1077	-	74.0%
Spoiled Ballots	59	-	4.1%

8. The ASU further says that the foregoing facts are well known to the CFS which has, since the time of ASU's withdrawal from membership in CFS, refused to accept the democratic decision of the students of Acadia University and has instead engaged in a protracted campaign of harassment and intimidation directed at the ASU, the intention of which campaign of harassment and intimidation is to force the ASU back into its membership and thereby into conformity with the various political positions and agendas of the CFS.
9. The campaign of harassment and intimidation aforesaid includes but is not limited to bringing the within baseless and vexatious action as a means of furthering its political agendas and thereby abusing the process of this Honourable Court.
10. In the alternative, the ASU says that if there is a valid and subsisting contract between itself and the CFS as alleged in the Statement of Claim (which is not admitted and is denied) that contract, to the extent that it is contrary to **An Act to Incorporate Acadia Students' Union**, S.N.S. 1967, c. 129 and/or to the extent that it limits or denies the constitutional rights of the ASU, and/or the constitutional rights of the students it represents by law, to freedom of conscience, thought, belief, opinion or expression or to freedom of association, is contrary to public policy and, hence, it is void and of no effect.
11. The ASU pleads and relies on the *Canadian Charter of Rights and Freedoms*, 1982 (U.K.) c. 11. as amended, and, without any limitation, on the fundamental freedoms enshrined in Section 2 thereof, which are:

2. Everyone has the following fundamental freedoms:

- (a) freedom of conscience and religion;
- (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
- (c) freedom of peaceful assembly; and
- (d) freedom of association.

[emphasis added]

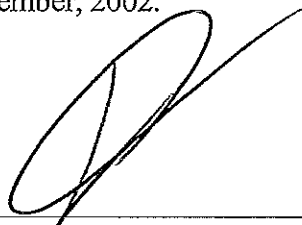
12. The ASU therefore seeks dismissal of the within action and its costs of defence on solicitor and client basis.

COUNTERCLAIM

13. The ASU repeats the forgoing and claims as against the Plaintiffs/Defendants By Counterclaim and each of them:

- (a) **general damages** for intimidation and/or harassment and/or as a remedy pursuant to Section 24(1) of the *Canadian Charter of Rights and Freedoms*;
- (b) **declaratory relief** including a declaration of this Honourable Court that the ASU is not now, and has not been since February 1996 a member or affiliate of the CFS;
- (c) **injunctive relief** enjoining the CFS from intimidating and/or harassing the ASU in any manner whatsoever, from holding out or claiming in any form or manner that the ASU is one of its members and, without the express permission of this Honourable Court, from bringing or maintaining any further process or litigation against the ASU;
- (d) **punitive and/or exemplary damages**;
- (e) **pre-judgment interest**;
- (f) **its costs of suit and of defence on a solicitor and client basis**; and
- (g) **such further and other relief as to this Honourable Court is just.**

DATED at Kentville, Nova Scotia, this 24th day of September, 2002.



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TO: The Prothonotary
AND TO: E. Roxanne MacLaurin
 Solicitor for the Plaintiffs/
 Defendants By Counterclaim